

WALTER R. CANNON, ESQ.
Nevada Bar No. 001505
OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
wcannon@ocgas.com
Telephone: (702) 384-4012
Facsimile: (702) 383-0701
Attorney for Defendants
Lowe's Home Centers, LLC
and Lowe's HIW, Inc.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

AILI KAUPS,

Plaintiff,

v.

LOWE'S HOME CENTERS, LLC,
LOWE'S HIW, INC.,
DOE MAINTENANCE EMPLOYEE,
DOE EMPLOYEE, DOE JANITORIAL
EMPLOYEE, DOE OWNER, I-V,
ROE OWNERS, ROE EMPLOYER,
ROE COMPANY
and ROE COMPANIES, I-V,

Defendants.

Case No. 2:17-cv-02059-JCM-CWH

STIPULATION AND ORDER TO EXTEND DISCOVERY CUTOFF
(Third Request)

COMES NOW, Plaintiff, AILI KAUPS, by and through her attorney, JACQUELINE R. BRETELL, ESQ., of BIGHORN LAW, and Defendant, LOWE'S HOME CENTERS, LLC and LOWE'S HIW, INC., by and through its attorney, WALTER R. CANNON, ESQ., of OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, and hereby stipulate, agree and make this joint application to extend the discovery cutoff date, for a period of seventy-seven (77) days, from July 23, 2018, to and including October 8, 2018. This Stipulation is made and based upon the following facts and for the following reasons:

...

1 **I. INTRODUCTION**

2 This action arises out of an alleged incident that occurred on April 10, 2015 in the
3 parking lot area of the Lowe's store located at 9955 South Eastern Avenue, Las Vegas, Nevada,
4 89183. In her Complaint, Plaintiff alleges that she slipped and fell over a rock, pine cone, or a
5 crack in the parking lot as she was walking to her vehicle, causing her to fall to the ground and
6 injure herself. Further, Plaintiff alleges general complaints of pain in her cervical and lumbar
7 areas, a non-displaced fracture in her right knee and left ankle, and a partially torn rotator cuff
8 which required orthoscopic surgery to repair. Defendant's Answer denies fault for the accident
9 and affirmatively alleges that Plaintiff's claimed injuries were not all related to the fall that she
10 has alleged to have experienced.

11 **II. DISCOVERY COMPLETED TO DATE**

- 12 1. On July 28, 2017, Defendants filed a Petition for Removal of Civil Action.
- 13 2. On August 11, 2017, Defendant filed a Compliance with Court Order Concerning
14 Removal.
- 15 3. On August 28, 2017, the parties filed a Joint Status Report Concerning Removal.
- 16 4. On October 10, 2017, the parties submitted a proposed Discovery Plan and Scheduling
17 Order to the Court.
- 18 5. On October 12, 2017, this Honorable Court granted the Discovery Plan and
19 Scheduling Order.
- 20 6. On October 16, 2017, Defendants served Interrogatories and Request for Production
21 upon the Plaintiff.
- 22 7. On October 26, 2017, Plaintiff served Interrogatories, Request for Production of
23 Documents, and Requests for Admissions upon Defendants.
- 24 8. On December 8, 2017, Plaintiff served Responses to Defendant's First Set of
25 Requests for Production of Documents upon Defendants.
- 26 9. On December 8, 2017, Plaintiff served Responses to Defendant's Interrogatories upon
27 Defendants.
- 28 ...

1 10. On January 3, 2018, Defendant served Responses to Requests for Admissions upon
2 Plaintiff.

3 11. On January 30, 2018, Defendant served Answers to Interrogatories and Response to
4 Request for Production upon Plaintiff.

5 12. On May 8, 2018, Plaintiff noticed a FRCP 34 Inspection for May 22, 2018, however,
6 that inspection is in the process of being rescheduled.

7 13. The parties continue in their attempts to obtain a complete set of medical and billing
8 records on the Plaintiff. Unfortunately, the process continues at this point, given the doctor's use
9 of outside third parties in responding to such requests.

10 14. The parties have tentatively scheduled and subsequently cancelled at least three
11 depositions given the problems associated in obtaining a complete set of medical and billing
12 records on the Plaintiff.

13 **III. DISCOVERY REMAINING**

14 The parties still need to take at least eight to nine depositions, including a PMK of
15 Defendant's representative, Plaintiff, two to three depositions of Defendant's former employees,
16 and at least three of Plaintiff's treating doctors. The deposition of the PMK is presently in the
17 process of being scheduled. The depositions of Defendant's three former employees have been
18 delayed as Defendant is still attempting to locate these ex-employees so their depositions can be
19 scheduled.

20 Given the number of depositions that remain to be taken, the parties do not believe that
21 they can complete their discovery by the current July 23, 2018 discovery cutoff date.

22 **IV. REASON DISCOVERY REMAINING WAS NOT CONDUCTED DURING THE** 23 **SCHEDULED DISCOVERY PERIOD**

24 As indicated in the parties last Stipulation to Continue Discovery, they are having
25 difficulty in obtaining a complete set of medical and billing records from local hospitals and
26 Plaintiff's treating physicians. This process, which used to take approximately 45 to 60 days to
27 complete, has now taken much longer given the doctor's and hospitals use of outside service
28 companies to respond to medical record requests. The parties anticipate having all of Plaintiff's

1 medical and billing records within the next 30 days and then should be in a position to begin their
2 deposition discovery. Additionally, three of Defendant's employees who interacted with Plaintiff
3 on the date of the accident in question have now left Defendant's employ. Defendant is
4 attempting to locate these individuals and hopes to have them available for deposition within the
5 next 60 days. Finally, Defendant anticipate taking the depositions of at least three of Plaintiff's
6 treating physicians and will do so once all of the medical records have been received.

7 **V. PRIOR REQUEST TO EXTEND THE DISCOVERY CUTOFF DATE**

8 This is the parties third request to extend the discovery cutoff date and it is made in good
9 faith and not merely for the purposes of delay. The parties believe that, if the Court were to grant
10 the extension they are seeking, they should be able to gather the remaining medical records and
11 take all of the depositions necessary in order to properly prepare this case for trial and/or
12 mediation.

13 Based upon this Stipulation and for the reasons set forth herein, the parties would
14 respectfully request that the Court extend the present discovery cutoff date for a period of
15 seventy-seven (77) days, from July 23, 2018 through October 8, 2018.

16 DATED this 6th day of June, 2018.

17 BIGHORN LAW

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI

19 BY: /s/ Siria L. Gutierrez
20 JACQUELINE R. BRETTELL, ESQ.
21 Nevada Bar No. 12335
22 SIRIA L. GUTIERREZ, ESQ.
23 Nevada Bar No. 11981
24 716 S. Jones Blvd.
25 Las Vegas, Nevada 89107
26 Attorneys for Plaintiff

BY: /s/ Walter R. Cannon
WALTER R. CANNON, ESQ.
Nevada Bar No. 1505
9950 W. Cheyenne Avenue
Las Vegas, Nevada 89129
Attorney for Defendants

27 **ORDER**

28 Based upon the Joint Stipulation of the parties and good cause appearing therefrom, it is
hereby ORDERED:

...

1. That the current discovery cutoff date be extended for a period of seventy-seven (77) days, through and including October 8, 2018.
2. That the disclosure of experts shall occur on August 9, 2018.
3. The Interim Status Report shall be filed by August 9, 2018.
4. That the disclosure of rebuttal experts shall occur on September 10, 2018.
5. That all dispositive motions shall be served and filed not later than November 7, 2018.
6. That the parties Joint Pretrial Order shall be filed with the Court no later than December 7, 2018, unless dispositive motions are filed, in which case the date for filing the Joint Pretrial Order shall be suspended until thirty (30) days after the decision of the dispositive motions or further Order of the Court.
7. No trial date has of yet been set.

DATED: July 2, 2018


UNITED STATES MAGISTRATE JUDGE

Respectfully submitted,

BIGHORN LAW

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI

BY: /s/ Siria L. Gutierrez
JACQUELINE R. BRETTELL, ESQ.
Nevada Bar No. 12335
SIRIA L. GUTIERREZ, ESQ.
Nevada Bar No. 11981
716 S. Jones Blvd.
Las Vegas, Nevada 89107
Attorneys for Plaintiff

BY: /s/ Walter R. Cannon
WALTER R. CANNON, ESQ.
Nevada Bar No. 1505
9950 W. Cheyenne Avenue
Las Vegas, Nevada 89129
Attorney for Defendants

Date: June 6, 2018

Date: June 6, 2018